

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 965

Introduced by Assembly Member Eduardo Garcia

February 26, 2015

An act to amend Sections 71100, 71101, and 71103 of, and to add Section 71103.6 to, the Public Resources Code, and to amend Section 7048 of, and to add Section 79717 to, of the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 965, as amended, Eduardo Garcia. California and Mexico border: water resources improvement.

(1) Existing law establishes the California-Mexico Border Relations Council in state government, and prescribes the membership and functions and duties of the council with respect to coordinating the activities of state agencies, including environmental agencies, that are related to cross-border programs, initiatives, projects, and partnerships that exist within state agencies, and state and local efforts that are of concern between California and Mexico. Existing law requires the council to develop a strategic plan to guide a project to study, monitor, remediate, and enhance water quality in the New River in Imperial County. Existing law establishes the California Border Environmental and Public Health Protection Fund and makes moneys in the fund available, upon appropriation, to the Secretary for Environmental Protection for grants for specified health and environmental projects and purposes relating to the California-Mexico border region.

This bill would require the council to establish the New River Water Quality, Public Health, and River Parkway Development Program to coordinate funding for, and the implementation of, recommendations from the strategic plan and the projects identified pursuant to existing law. The bill would provide that *specified* water bond proceeds, ~~as described in (3)~~, may be deposited in the fund to be available, upon appropriation, to the secretary for these purposes.

(2) Existing law authorizes the Director of Water Resources to establish a program of flood damage reduction and urban creek restoration known as the Urban Streams Restoration Program. For purposes of the program, urban creek protection, restoration, and enhancement include, but are not limited to, the maintenance of channel capacity, channel stabilization, vegetation management, and adaptive management to meet program objectives.

This bill would also include the reduction of water quality impairments and nonpoint source water pollution, and the establishment of parkways for public use that benefit flood control and water quality among the types of measures that are included in the program.

Existing law requires the Department of Water Resources to coordinate the program with the Department of Fish and Wildlife, as prescribed.

This bill would, in addition, require the Department of Water Resources to consult with the council to establish criteria to fund projects that improve conditions for cross-border urban creeks.

~~(3) Existing law, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, approved by the voters as Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$7,545,000,000 to finance a water quality, supply, and infrastructure improvement program.~~

~~This bill would require responsible agencies under the bond act to consult with the council when developing any regulations or guidelines for the expenditure of these moneys and establishing criteria for watershed restoration projects on the California-Mexico border.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71100 of the Public Resources Code is
2 amended to read:

3 71100. The following definitions govern the construction of
4 this part:

5 (a) “California-Baja California border region” means the region
6 to the north and south of the international border between
7 California and Baja California described in Article 4 of the La Paz
8 Agreement, signed August 14, 1983, between the United States
9 and Mexico.

10 (b) “Council” means the California-Mexico Border Relations
11 Council, established pursuant to Section 99522 of the Government
12 Code.

13 (c) “Fund” means the California Border Environmental and
14 Public Health Protection Fund established pursuant to Section
15 71101.

16 SEC. 2. Section 71101 of the Public Resources Code is
17 amended to read:

18 71101. (a) The California Border Environmental and Public
19 Health Protection Fund is hereby established in the State Treasury
20 to receive funds appropriated in the annual Budget Act, including,
21 but not limited to, proceeds of bonds sold pursuant to Division
22 26.7 (commencing with Section 79700) of the Water Code, and
23 other sources, such as from *the* North American Development
24 Bank, Border Environment Cooperation Committee, United States
25 Environmental Protection Agency, and private businesses or
26 foundations, and any interest accrued on those funds.

27 (b) The money in the fund shall be available, upon appropriation,
28 to the Secretary for Environmental Protection, for allocation for
29 expenditure for the purposes of this part.

30 (c) The money in the fund shall not be made available for the
31 purpose of bringing a person or a facility into compliance with
32 environmental laws, or to provide funds to remediate environmental
33 damage. The fund, instead, shall assist appropriate responsible
34 agencies in California and Baja California in the implementation
35 of projects to identify and resolve environmental and public health
36 problems that directly threaten the health or environmental quality
37 of California residents or sensitive natural resources of the
38 California border region, including projects related to domestic

1 and industrial wastewater, vehicle and industrial air emissions,
2 hazardous waste transport and disposal, human and ecological
3 risk, and disposal of municipal solid waste.

4 SEC. 3. Section 71103 of the Public Resources Code is
5 amended to read:

6 71103. (a) The Secretary for Environmental Protection, upon
7 request, shall inform any community-based nonprofit
8 environmental organization, responsible local government, and
9 special district located within the California-Baja California border
10 region that it may request funding pursuant to Section 71102.

11 (b) The Secretary for Environmental Protection, in consultation
12 with the council, shall award grants to a local governmental entity
13 or special district, community-based nonprofit environmental
14 organization, or postsecondary educational institution based on
15 the severity of the environmental, public health, or natural resource
16 concerns due to cross-border transmission of environmental
17 pollutants or toxics to the city or county in which the entity,
18 organization, or institution is located. First priority for funding
19 shall be given to an entity, organization, or institution located in
20 a city or county in which an environmental, public health, or natural
21 resource threat exists and that has existing capability to respond
22 to, implement, and abate the threat to California from cross-border
23 sources.

24 (c) The Secretary for Environmental Protection, on behalf of
25 the council, shall accept donations of used equipment, including
26 computers, printers, and lab equipment, for distribution to
27 governmental entities and community-based nonprofit
28 environmental organizations located within the California-Baja
29 California border region and postsecondary educational institutions
30 located within Baja California and within the California-Baja
31 California border region, if the donations can be shown to
32 contribute to the protection of the environment, public health, or
33 natural resources of the California border region.

34 SEC. 4. Section 71103.6 is added to the Public Resources Code,
35 to read:

36 71103.6. (a) The council shall establish the New River Water
37 Quality, Public Health, and River Parkway Development Program
38 to coordinate funding for, and the implementation of, the
39 recommendations from the strategic plan developed pursuant to

1 subdivision (c) of Section 71103.5, and the projects identified
2 pursuant to Section 71102.

3 (b) A state agency that funds the activities of the program shall
4 make all necessary efforts to integrate and align its contractual and
5 administrative requirements for grants, loans, and other forms of
6 financial support to meet the goals of the program.

7 SEC. 5. Section 7048 of the Water Code is amended to read:

8 7048. (a) The Legislature hereby finds and declares that the
9 protection, restoration, and enhancement of urban creek channels
10 provide potential benefits to the state by combining an effective
11 and efficient means of flood damage reduction with the
12 preservation and enhancement of natural environmental values.
13 The Legislature further finds that urban creek protection,
14 restoration, and enhancement are best undertaken by local agencies
15 and organizations with assistance from the state. It is the intent of
16 the Legislature, in enacting this section, to restore the ecological
17 viability of creek environments located in predominantly urban
18 areas, thereby enhancing aesthetic, recreational, and fish and
19 wildlife values.

20 (b) (1) The director may establish a program of flood damage
21 reduction and urban creek restoration known as the Urban Streams
22 Restoration Program. The program shall consist of both of the
23 following components:

24 (A) The development of the capability by the department to
25 respond to requests from local agencies and organizations for
26 planning and design assistance for efficient and effective urban
27 creek protection, restoration, and enhancement.

28 (B) To the extent that funds are provided, a process for awarding
29 competitive grants.

30 (2) For purposes of this section, urban creek protection,
31 restoration, and enhancement include, but are not limited to, the
32 maintenance of channel capacity, channel stabilization, vegetation
33 management, the reduction of water quality impairments and
34 nonpoint source water pollution, the establishment of parkways
35 for public use that benefit flood control and water quality, and
36 adaptive management to meet program objectives. Where
37 appropriate, the protection, restoration, and enhancement shall
38 utilize efficient, nonstructural low-maintenance flood protection
39 techniques. The department shall utilize in this program its

1 expertise in a variety of disciplines, including, but not limited to,
2 soil bioengineering, hydrology, and plant ecology.

3 (3) (A) The department shall maintain a balance in allocating
4 the money annually available for grants to small urban creek
5 restoration projects and large urban stream restoration projects,
6 allocating not less than 35 percent to both small and large projects.
7 For purposes of this section, “small urban creek restoration
8 projects” are projects for which total costs, including acquisition
9 and restoration costs, are below one million dollars (\$1,000,000)
10 and “large urban stream restoration projects” are projects for which
11 total costs, including acquisition and restoration-~~costs~~ costs, are
12 one million dollars (\$1,000,000) or more.

13 (B) Notwithstanding subparagraph (A), if an insufficient number
14 of qualified projects are available to fully meet the allocation
15 requirement, the department may grant funds to any project that
16 is otherwise qualified, in order to ensure that all available funds
17 are used efficiently.

18 (c) In responding to requests for assistance, the department shall
19 give priority to those projects that are being planned in conjunction
20 with, or in lieu of, local flood control projects. The department
21 may award grants and contracts to local agencies and organizations
22 as provided for in the budget of the department. Participating local
23 agencies and organizations shall follow procedures, plans, and
24 practices that are acceptable to the department, and shall conform
25 to guidelines established by the department that define the level
26 of contribution and participation required by local agencies and
27 organizations.

28 The department shall coordinate the program with the
29 Department of Fish and Wildlife during the formulation of
30 guidelines and project planning for urban creek protection,
31 restoration, and enhancement. The department shall also consult
32 with the Department of Fish and Wildlife on project criteria which
33 may include economic, environmental, and social benefits to be
34 achieved.

35 (d) It is the intent of the Legislature that the duties and
36 responsibilities of the department be identified as the Urban
37 Streams Restoration Program and be carried out by an office or
38 staff designated for this purpose. Information on how to obtain
39 planning, design, and financial assistance should be readily
40 accessible to the public.

1 (e) As used in this section, “urban creek” means a ~~creek~~ *creek*,
2 stream, or river that crosses built-up residential, commercial, or
3 industrial property, or that crosses land where, in the near future,
4 the land use will be residential, commercial, or industrial.

5 (f) For the purposes of this section, eligible activities include,
6 but are not limited to, the maintenance of channel capacity and
7 stabilization of the morphological equilibrium of a natural channel
8 for purposes of flood damage reduction, erosion control, and bank
9 stabilization which may include nonstructural as well as structural
10 projects.

11 (g) The department may adopt regulations that define “adaptive
12 management” for the purposes of the Urban Streams Restoration
13 Program, and establish criteria to fund projects that include
14 adaptive management activities.

15 (h) The department may amend or utilize existing regulations
16 for approving competitive grants. The regulations may include,
17 but are not limited to, an application process, grant approval
18 criteria, and grantee’s reporting requirements. The department
19 shall annually make available to the public, in a form that is readily
20 accessible, information regarding the status of funds appropriated
21 for these purposes and projects that received grants.

22 (i) In order to address the unique ecological, flood control, water
23 quality, and hydrological conditions associated with urban creeks
24 and watersheds on the California-Mexico border, the department
25 shall consult with the California-Mexico Border Relations Council
26 to establish criteria to fund projects that improve conditions for
27 cross-border urban creeks.

28 ~~SEC. 6. Section 79717 is added to the Water Code, to read:~~

29 ~~79717. In order to address the unique ecological, water quality,~~
30 ~~habitat, and hydrological conditions associated with urban creeks~~
31 ~~and watersheds on the California-Mexico border, responsible~~
32 ~~agencies shall consult with the California-Mexico Border Relations~~
33 ~~Council when developing regulations or guidelines for the~~
34 ~~expenditure of funds pursuant to this division for, and establishing~~
35 ~~criteria for, watershed restoration projects in the border region.~~